

**FILED**

**JUL - 6 2006**

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

**NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT**

**JUAN CARLOS GINARTE**

4000 Tunlaw Rd., NW  
Apt. 325  
Washington, DC 20007

Plaintiff,

v.

Civil Action No. \_\_\_\_\_

**JURY  
ACTION**

**ROBERT S. MUELLER, III**

**Director, Federal Bureau of Investigation**

J. Edgar Hoover Bldg.  
935 Pennsylvania Ave., NW  
Washington, DC 20535

CASE NUMBER 1:06CV01222

JUDGE: Richard J. Leon

DECK TYPE: FOIA/Privacy Act

DATE STAMP: 07/06/2006

and

**ATTORNEY GENERAL ALBERTO GONZALES**

**U.S. Dept. of Justice**

950 Pennsylvania Avenue, NW  
Washington, DC 20530

Defendants.

**COMPLAINT FOR DECLARATORY JUDGMENT,  
INJUNCTIVE RELIEF, DAMAGES, AND ATTORNEYS' FEES**

COME NOW the Plaintiff, Juan Carlos Ginarte, by and through his attorneys, Jonathan L. Katz, and the law firm of Marks & Katz, LLC, and represents to this honorable Court as follows:

**I. NATURE OF ACTION**

1. This is an action to compel the disclosure of material sought under the Freedom of Information Act, Privacy Act, and all other applicable laws.

**II. JURISDICTION AND VENUE**

2. This action is brought pursuant to 5 U.S.C. § 552 and 5 U.S.C. § 552(a)(4)(B) to

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enjoin and order the United States Federal Bureau of Investigation ("FBI") to produce FBI records improperly withheld from Plaintiff.

3. Jurisdiction in this Court is conferred by 5 U.S.C. § 552(a)(4)(B), which confers this Court with the authority to enjoin agencies from withholding agency records improperly withheld under the Freedom of Information Act ("FOIA").

4. Venue in this Court is conferred by 5 U.S.C. § 552(a)(4)(B), which provides that a complaint thereunder be filed in the district in which the complainant resides (Plaintiff resides in the District of Columbia), or has his principal place of business, or in which the agency records are situated.

### **III. PARTIES**

5. Plaintiff JUAN CARLOS GINARTE (hereinafter "Ginarte"), is a District of Columbia resident, living at 4000 Tunlaw Rd., NW, Apt. 325, Washington, DC 20007

6. Defendant ROBERT S. MUELLER, III is the Director of the United States Federal Bureau of Investigation.

7. Defendant ATTORNEY GENERAL ALBERTO GONZALES is the Attorney General of the United States. As Attorney General, he is the head of the United States Justice Department. Defendant Robert S. Mueller, III's FBI is part of the United States Justice Department.

### **IV. ALLEGATIONS**

7. On February 6, 2006, Plaintiff sent the FBI a FOIA Request and Privacy Act Waiver requesting all documents relating to Plaintiff. The FBI received said FOIA Request and Privacy Act Waiver on February 13, 2006.

8. By letter dated February 15, 2006, the FBI stated that "A search of the automated

indices to our central records system files at FBI Headquarters located no records responsive to your FOIA Request.” The letter proceeded to advise a sixty-day period to file an appeal, and gave an appeal address of Co-Director, Office of Information and Privacy, U.S. Dept. of Justice, Suite 570, Flag Building, Washington, DC 20530. The letter assigned this matter a Request Number 1038463-000.

9. Plaintiff filed a timely appeal dated April 16, 2006, from the FBI’s reply detailed in ¶ 8, *supra*. Among other things, the appeal states that the FBI’s February 15, 2006, FOIA reply is insufficient by limiting itself to “automated indices to our central records system files at FBI Headquarters located no records responsive to your FOIA Request,” because the original FOIA request is not limited to “automated indices”. Plaintiff’s FOIA request seeks *all* information about Plaintiff, and not only information in “automated indices.”

10. Plaintiff has received no reply to his appeal described in ¶ 9, *supra*, other than a letter dated April 27, 2006, from Priscilla Jones, Chief, Administrative Staff, U.S. Department of Justice Office of Information and Policy.

Said April 27, 2006, letter from the Justice Department’s Ms. Jones states, *inter alia*, that Plaintiff’s appeal has been assigned number -6-1788, and that “We will notify you of the decision on your appeal as soon as we can.” Plaintiff has received no further communication from the government concerning the FOIA request and Privacy Waiver described in ¶ 7, *supra*.

### **COUNT I**

#### **PLAINTIFF IS ENTITLED TO THE DOCUMENTS SOUGHT IN HIS FOIA REQUEST**

11. Plaintiff realleges and incorporates herein paragraphs 1 through 10 as if fully restated herein.

12. Defendants have failed to reply to his appeal within twenty business days,

pursuant to 5 U.S.C. § 552(a)(6)(A)(ii),

13. Plaintiff is entitled to obtain the documents sought in his FOIA request, pursuant to 5 U.S.C. § 552(a)(3)(A), which provides for each agency to make records promptly available to any person reasonably describing such records.

**COUNT II**

14. Plaintiff realleges and incorporate herein paragraphs 1 through 13 as if fully restated herein.

15. Defendants have wrongfully withheld the documents sought in Plaintiff's above-described FOIA request.

16. In his legitimate desire to pursue the rights and privileges guaranteed by the laws of the United States, Plaintiff has employed the undersigned attorneys to prosecute this action and has agreed to pay them a reasonable fee for same.

17. Accordingly, Plaintiff is entitled to an award of attorney's fees as provided for by 5 U.S.C. § 552(a)(4)(E), and by all other applicable provisions of law.

**WHEREFORE**, Plaintiff respectfully requests that this Court GRANT the following relief:

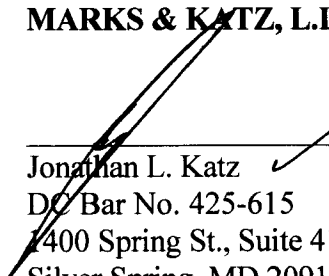
- a) A declaration that Defendants have improperly withheld the documents sought in his FOIA request described above;
- b) An immediate hearing on this Complaint;
- c) An Order that the Defendants forthwith provide the documents sought in Plaintiff's FOIA request;
- d) An award of any and all attorney's fees and costs as authorized by law;
- e) An award of all appropriate damages established by Plaintiff; and

f) Such other and further relief as this Court deems fit, just, and equitable.

Dated: July 6, 2006

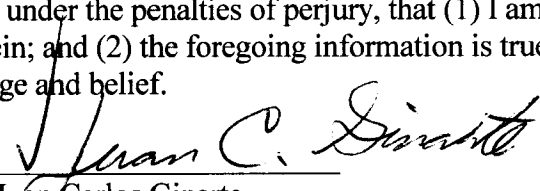
Respectfully submitted,

**MARKS & KATZ, L.L.C.**

  
\_\_\_\_\_  
Jonathan L. Katz  
DC Bar No. 425-615  
1400 Spring St., Suite 410  
Silver Spring, MD 20910  
(301) 495-4300  
Fax: (301) 495-8815  
Attorneys for Plaintiff

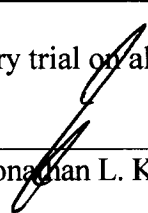
**VERIFICATION**

I HEREBY VERIFY AND CERTIFY, under the penalties of perjury, that (1) I am over the age of eighteen and am qualified to testify herein; and (2) the foregoing information is true and correct to the best of my information, knowledge and belief.

  
\_\_\_\_\_  
Juan Carlos Ginarte

**DEMAND FOR JURY TRIAL**

The Plaintiff respectfully demands a jury trial on all issues so triable.

  
\_\_\_\_\_  
Jonathan L. Katz